v. *Sullivan,* 81 Ky. 624; *Railway Co.* v. *Valleley,* 32 Ohio 345; *Fogg's Adm'r* v. *Louisville & N. R. R. Co.,* 111 Ky. 30. In the Ohio case where it was admitted that the plaintiff was drunken and quarrelsome, and so a trespasser on the train, the court said: "To put off a drunken man during a bitterly cold night, in the woods, far from any house, when the probabilities were that he would freeze to death before help could reach him, would be as indefensible in law as it would be wicked and cruel in fact." This was dictum in that case. In a case decided in the Kansas City Court of Appeals in February, 1907, *Horless* v. *South West. Missouri Electric Ry. Co.,* 99 South West. Rep. 793, it was held that where conductor ejected a young child from a car, away from its home and in the cold weather, because the person who had placed it on the car had neglected to give it the money for its fare, it was a wilful tort and justified a recovery for injuries sustained. The Minnesota case under discussion is stronger than any of these because there the plaintiff was not a trespasser but was on the premises by invitation of defendant. It has of course long been recognized that when one is on the premises of another, that other owes him the duty of guarding him from any dangers in the condition of the premises, but that he also has the duty of allowing him to remain on his premises when it would be dangerous for him, on account of his condition, to leave the premises, is a rather new doctrine. By processes of hard, cold logic it is difficult to determine just out of what the duty arises, for there is no contract relation, and the license may be revoked at any time. It would seem, however, that a man's life is of such importance to society that the courts are justified in creating the legal duty even if it has to be induced by moral rather than legal considerations.

NUISANCE—INJURIES RESULTING FROM EXPLOSION OF BLASTING POWDER.—The defendant being engaged in grading and changing a line of railroad erected two buildings within 1,000 feet of plaintiff's dwelling house and stored therein large quantities of dynamite and blasting powder for use in its work. Both of these magazines exploding, the shock was so great as to permanently injure plaintiff, who was seated in his house 1,000 feet away. *Held,* that the question whether defendant was guilty of maintaining a nuisance was for the jury, and they having decided that he was guilty, that defendant was liable for any resulting injury. *Kerbaugh, Inc.* v. *Caldwell* (1907), — C. C. A., 3rd Circ. —, 151 Fed. Rep. 194.

Not every injury resulting from the use of explosives by others is actionable. In the case of *Booth* v. *The Rome, Watertown & Ogdensburg Terminal Railroad Co.,* 140 N. Y. 267, it was decided that even if injury had resulted to plaintiff's dwelling from defendant's blasting rock on its own premises, in order to adapt them to a lawful use, still if it was shown that this was the only practicable method and that the work was done with due care, it was a case of damnum absque injuria and there could be no recovery. To the same effect is *Holland House Co.* v. *Baird,* 169 N. Y. 136, and *Simon* v. *Henry,* 62 N. J. Law 486. In all of these cases there was great injury to the plaintiff. However, it was decided in *McAndrews* v. *Collard,* 42 N. J. Law 189, that "the keeping of gunpowder, nitro-glycerine, or other explosives in large

quantities, in the vicinity of a dwelling house or place of business is a nuisance per se, and may be abated as such by action at law or injunction in equity, and if actual injury results therefrom the person keeping them is liable therefor even though the act occasioning the explosion is due to other persons and is not chargeable to his personal negligence." WOOD, NUISANCES, § 142, where the rule is stated rather broadly. It has been decided by the Supreme Court of Pennsylvania, in which state the present case arose, that the keeping of four boxes of dynamite and four kegs of powder within seven hundred feet of a dwelling was not a nuisance per se, and where the amount was no more than was needed in carrying on mining operations. The case under comment differs from this only in degree, although the amount of explosives stored in each case was sufficient to work great injury to persons some distance away. It is to be distinguished from the New York and New Jersey cases in that there the use of powder in blasting seemed to be the only way for the defendants to loosen the rock upon their premises so that the land might be fitted for use, and hence the blasting was reasonable if carefully done and not a nuisance even if it did result in damage to the property of others. But in the present case an unreasonably large amount of explosives was stored near plaintiff's dwelling and this was a nuisance for any resulting damage from which, the defendant would be held liable.

PICKETING—LAWFUL AND UNLAWFUL.—Defendants, Keegan and Kirk, were officers of the International Association of Machinists and the other defendants employees of plaintiff on strike. The bill charged that defendants had engaged in picketing and other acts of intimidation and violence, and prayed for an injunction. Most of the defendants were not proved to have participated in anything more than peaceful persuasion. A few were shown to have been guilty of violence. Against the latter the injunction was allowed. *Pope Motor Car Co.* v. *Keegan et al.* (1906), — C. C., N. D., Ohio, N. D. —, 150 Fed. Rep. 148.

Same: The facts were similar to those above except that numerous acts of violence were shown, and the pickets and strikers congregated in large numbers about plaintiffs' premises. Defendants had been enjoined "From maintaining at or near the premises of said company any picket or pickets in a threatening or intimidating manner." In contempt proceedings the above facts being shown, those strikers proven to have participated in acts of violence were punished and all the pickets were mulcted a nominal fine. *Allis-Chalmers Co.* v. *Iron Molders' Union No. 125 et al.* (1906), — C. C., E. D., Wis. —, 150 Fed. Rep. 155.

These two cases are of interest as examples of lawful and unlawful picketing. This question is a phase of the broader one of interference with contract relations (see NOTE & COMMENT, current number of this REVIEW, and 20 HARVARD LAW REVIEW, pp. 253, 345, 429). Picketing, per se, is not unlawful as striking is lawful, so that the strikers may state their grievances to others and by peaceful persuasion secure their co-operation. *Karges Furniture Co.* v. *Union*, 165 Ind. 421, 2 L. R. A.